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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/099,684 06/18/98 DE POUS

0 VAL0829P0012

QMO2/1109  
DRESSLER GOLDSMITH SHORE & MILNAMOW  
TWO PRUDENTIAL PLAZA  
SUITE 4700  
180 NORTH STETSON AVENUE  
CHICAGO IL 60601

EXAMINER

DEAL, D

ART UNIT

PAPER NUMBER

3754

DATE MAILED:

11/09/99

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.  
09/099,684

Applicant(s)

De Pous et al.

Examiner

David Deal

Group Art Unit

3754

☒ Responsive to communication(s) filed on Oct 20, 1999

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 27 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 27 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Continued Prosecution Application*

1. The request filed on October 20, 1999 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/099,684 is acceptable and a CPA has been established. An action on the CPA follows.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Brocklin. Van Brocklin discloses an assembly for securing and sealing a dispenser to a flanged container having a top portion of an annular fixing ring 26 sized to accept the dispenser 80 and a bottom portion with inwardly extending snap-fastening projections 46. The dispenser is positioned on a receptacle 10 having an opening 14 and a flange 16. The assembly is secured to the container by means of an annular hoop 24. The method of assembling this device according to the applicant's claim is inherent if not obvious. First it would be obvious to combine the dispenser, the annular fixing ring and the annular hoop. Second it would be obvious to fasten this combination on the top of the container and to do so by pushing down until the snap fastening projections 46 are

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engaged with the container flange. Finally it would be obvious to push the annular hoop down over the fixing ring as shown in figures 7 and 8 to deform the fixing ring "until at least part of the hoop is disposed adjacent said snap-fastening projection".

4. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cater.

Cater discloses a device for securing a dispenser to a glass container having a dispenser 100, an annular fixing ring 106, an annular hoop 116 having an inwardly extending snapfastening projection 50 (figures 8 and 9) which is adapted to engage receptacle flange 102. The method of assembling this device according to the applicant's claim is inherent if not obvious. First it would be obvious to combine the dispenser, the annular fixing ring and the annular hoop. Second it would be obvious to fasten this combination on the top of the container and to do so by pushing down until the snap fastening projections 50 are engaged with the container flange. Finally it would be obvious to push the annular hoop down over the fixing ring as shown in figures 6,7,8 and 9 to deform the fixing ring "until at least part of the hoop is disposed adjacent said snap-fastening projection".

### *Conclusion*

5. This is a Continued Prosecution Application (CPA) of Application No. 09/099,684. All claims are drawn to the same invention and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See

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MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Patents to Meshberg and Mascitelli disclose similar devices to applicant's invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Deal whose telephone number is (703) 308-2782.

D.D.

DD 11-8-99

November 8, 1999

  
KEVIN SHAVER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700  
11/8/99